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Message Text

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INFO OCT-01 EUR-12 ISO-00 NSC-05 SP-02 SS-15 L-03 SAJ-01

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/058 W
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R 081037Z SEP 76
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC 962

C O N F I D E N T I A L SECTION 1 OF 3 OTTAWA 3594

E.O. 11652: GDS
TAGS: MILI, CA
SUBJECT: PROPOSED SAC/ADCOM EMERGENCY DEPLOYMENT AGREEMENT

1. SUMMARY. EMBASSY HAS RECEIVED LETTER FROM EXTERNAL AFFAIRS REGARDING PROPOSED SAC/ADCOM EMERGENCY DEPLOYMENT AGREEMENT. GOC MAKES MINOR COMMENTS ON PROPOSED DRAFT. HOWEVER, GOC CONTINUES TO INSIST THAT CANADIAN CONTRACTORS HAVE PRIORITY CONSIDERATION. END SUMMARY.

2. BEGIN TEXT OF COVERING LETTER. I AM WRITING YOU WITH REFERENCE TO YOUR LETTER OF JUNE 1, 1976, CONCERNING YOUR COMMENTS ON OUR COUNTER-DRAFT OF THE PROPOSED SAC/ADCOM EMERGENCY DEPLOYMENT AGREEMENT. THE POINTS CONTAINED IN YOUR LETTER HAVE BEEN EXAMINED BY OFFICIALS OF THIS DEPARTMENT AND THE DEPARTMENT OF NATIONAL DEFENCE AND IN GENERAL WE ARE IN AGREEMENT WITH YOUR SUGGESTED CHANGES.

WE HAVE NOTED YOUR PROPOSAL THAT THE TERM OF THE AGREEMENT BE 15 YEARS WITH INDEFINITE DURATION THEREAFTER. WE APPRECIATE THE NEED OF YOUR AUTHORITIES TO JUSTIFY BOTH INTERNALLY AND BEFORE CONGRESS THE CONTEMPLATED U.S. CAPITAL EXPENDITURES TO IMPROVE REFUELLING FACILITIES AT CANADIAN BASES BUT BELIEVE THAT A 15-YEAR FORMULA WITHOUT ANY REFERENCE TO TERMINATING PROCEDURES WOULD NOT BE SATISFACTORY TO CANADA. WE WOULD SUGGEST
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AS AN ALTERNATIVE THAT THE TERM OF THE AGREEMENT BE FOR

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INITIAL PERIOD OF FIVE YEARS WITH A PROVISION THAT
IT CONTINUE THEREAFTER UNLESS TERMINATED BY EITHER PARTY
ON 12 MONTHS WRITTEN NOTICE.

YOU WILL NOTE THAT THE LAST SENTENCE OF PARAGRAPY
4 OF OUR DRAFT ANNEX CALLS UPON THE U.S., IN MAKING
IMPROVEMENTS TO EXISTING CANADIAN FACILITIES, "TO AVOID
ANY INFRINGEMENT OF THE RIGHTS OF THIRD PARTIES". IN
THE CONTEXT OF THIS AGREEMENT, THE "RIGHTS OF THIRD
PARTIES" WOULD MEAN RIGHTS OF ANY THIRD PARTY WITH WHOM
DND HAS CONCLUDED CONTRACTUAL OBLIGATIONS. THESE COULD
INCLUDE, AMONG OTHERS, ANY LICENSE UNDER AGREEMENT TO
PROVIDE FOR THE INSTALLATION AND MAINTENANCE OF SEWAGE,
WATER, TELEPHONE FACILITIES AND FOR THE CUTTING OF HAY
ON THE AIRFIELD ETC.

WITH REGARD TO THE FORMULATION OF PARAGRAPH 5 ON
CONTRACTING PROCEDURES, WE NOTE THAT PRACTIVE HAS
VARIED DEPENDING ON CIRCUMSTANCES. IN THIS INSTANCE,
WE ARE OF THE OPINION THAT MINISTERS WOULD INSIST ON A
FORMULA WHICH WOULD GIVE PREFERENCE TO CANADIAN CONTRACT-
ORS AND, CONSEQUENTLY, WE PROPOSE THE FORMULATION CON-
TAINED IN THE ATTACHED DRAFT. CONSIDERING THE LIMITED
AMOUNT OF CONTRACTED WORK FORESEEN, IT IS NOT EXPECTED
THAT THIS REQUIREMENT SHOULD BECOME A MAJOR OBSTACLE
TO YOUR AUTHORITIES.

WE HAVE CONSIDERED THE CHANGES YOU PROPOSED FOR
PARAGRAPH 6 (FINANCING), PARAGRAPH 7 (CUSTOMS DUTIES),
PARAGRAPH 8 (REAL PROPERTY), PARAGRAPH 9 (OWNERSHIP
AND DISPOSAL OF PROPERTY), PARAGRAPH 10 (IMPROVED
FACILITIES) AND PARAGRAPH 11 (NATO SOFA) AND, IN EACH
CASE, WE ARE PLEASED TO GIVE OUR AGREEMENT TO THE
CHANGES AND REVISIONS SUGGESTED.

ON THE QUESTION OF SUPPLEMENTARY ARRANGEMENTS,
THE DEPARTMENT OF NATIONAL DEFENCE WISHES TO RETAIN THE
PRESENT WORDING, WHICH IN EFFECT MAKES THAT DEPARTMENT
THE AGENCY RESPONSIBLE FOR THE CO-ORDINATION OF SUCH
ARRANGEMENTS WITH THE APPROPRIATE CANADIAN AUTHORITIES.
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THIS PROCEDURE IS INTENDED TO FACILITATE TIMELY CON-
CLUSION OF USAF ARRANGEMENTS WITH OTHER DEPARTMENTS OF
THE TOVERNMENT OF CANADA WHILE ENSURING THAT THE DEPART-
MENT OF NATIONAL DEFENCE REMAINS AWARE OF ANY CHANGES.

THE CHANGES OUTLINED IN THIS LETTER HAVE BEEN
INCORPORATED INTO THE ATTACHED DRAFT AND I WOULD
APPRECIATE IT IF YOU WOULD CONVEY TO ME AT YOUR

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EARLIEST CONVENIENCE THE REACTION OF YOUR AUTHORITIES
TO IT.

YOURS SINCERELY,

G. G. RIDDELL,
DIRECTOR GENERAL,
BUREAU OF DEFENCE AND
ARMS CONTROL AFFAIRS.

END TEXT OF COVERING LETTER.

3. BEGIN TEXT OF DRAFT AGREEMENT. THE AMBASSADOR OF
THE UNITED STATES OF AMERICA TO CANADA TO THE SECRETARY
OF STATE FOR EXTERNAL AFFAIRS

NO. -----

SIR: I HAVE THE HONOR TO REFER TO DISCUSSIONS BETWEEN
REPRESENATIVES OF OUR TWO GOVERNMENTS, INCLUDING
DISCUSSIONS IN THE PERMANENT JOINT BOARD ON DEFENSE,
REGARDING THE MUTUAL INTEREST OF CANADA AND THE UNITED
STATES IN STRENGTHENING THEIR DETERRENT CAPABILITIES
BY CONCLUDING ARRANGEMENTS FOR THE EMERGENCY DEPLOYMENT
AND REFUELLING OF UNITED STATES MILITARY AIRCRAFT AT
SELECTED CANADIAN FORCES BASES IN CANADA IN TIMES OF
INTERNATIONAL CRISIS. CANADIAN AND UNITED STATES MILI-
TARY REPRESENTATIVES HAVE JOINTLY CONDUCTED INVESTIGA-
TIONS OF CERTAIN CANADIAN BASES TO DETERMINE THEIR
SUITABILITY FOR THIS PURPOSE.

THE UNITED STATES GOVERNMENT NOW PROPOSES THAT
THE USE OF FOUR BASES IN CANADA BY UNITED STATES MILI-
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TARY AIRCRAFT DURING AN INTERNATIONAL CRISIS BE APPROVED
IN PRINCIPLE BY THE GOVERNMENT OF CANADA AND BE GOVERNED
IN PRACTISE BY THE CONDITIONS SET FORTH IN THE ANNEX
TO THIS NOTE.

IF THE FOREGOING IS ACCEPTABLE TO THE GOVERNMENT
OF CANADA, I HAVE THE HONOR TO PROPOSE THAT THIS NOTE
TOGETHER WITH THE ANNEX THERETO AND YOUR REPLY TO THAT
EFFECT SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO
GOVERNMENTS WHICH WILL ENTER INTO FORCE FOR A PERIOD

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TO SECSTATE WASHDC 963

C O N F I D E N T I A L SECTION 2 OF 3 OTTAWA 3594

OF FIVE YEARS DURING WHICH TIME ITS TERMS MAY BE RE-
VIEWED AT ANY TIME UPON THE REQUEST OF EITHER PARTY.
THEREAFTER THE AGREEMENT SHALL CONTINUE IN FORCE UNTIL
TERMINATED BY EITHER GOVERNMENT FOLLOWING TWLEVE MONTHS
NOTICE IN WRITING OF INTENTION TO TERMINATE.

ACCEPT, SIR, THE RENEWED ASSURANCES OF MY HIGHEST
CONSIDERATION

ENCLOSURE: ANNEX 1. END TEXT OF DRAFT AGREEMENT.

4. BEGIN TEXT OF ANNEX. STATEMENT OF CONDITIONS
GOVERNING THE EMERGENCY DEPLOYMENT AND REFUELLING OF
UNITED SATES MILITARY AIRCRAFT AT CANADIAN FORCES
BASES. (HEREAFTER, UNLESS THE CONTEXT OTHERWISE
REQUIRES, "CANADA" MEANS THE GOVERNMENT OF CANADA,
AND "UNITED STATES" MEANS THE GOVERNMENT OF THE UNITED
STATES OF AMERICA).

1. CONSULTATION

PRIOR TO DEPLOYING AIRCRAFT OR PERSONNEL TO
SPECIFIED CANADIAN BASES (HEREINAFTER REFERRED TO
AS "DEPLOYMENT BASES"), UNITED STATES AUTHORITIES
SHALL CONSULT WITH THE APPROPRIATE CANADIAN
AUTHORITIES AND OBTAIN SPECIFIC APPROVAL FOR SUCH
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DEPLOYMENT.

2. DEPLOYMENT OF PERSONNEL AND AIRCRAFT

THE UNITED STATES SHALL NOT PERMANENTLY STATION ANY PERSONNEL OR AIRCRAFT AT THE DEPLOYMENT BASES; HOWEVER, THE UNITED STATES MAY TEMPORARILY DEPLOY TO THE DEPLOYMENT BASES MILITARY PERSONNEL AND AIRCRAFT UNDER THE COMMAND AND CONTROL OF UNITED STATES MILITARY AUTHORITIES. THE NUMBERS OF PERSONNEL AND AIRCRAFT TO BE TEMPORARILY DEPLOYED AT ANY PARTICULAR DEPLOYMENT BASE WILL BE A MATTER FOR AGREEMENT BETWEEN THE APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS.

3. OPERATION

A. CANADA SHALL, TO THE EXTENT COMPATIBLE WITH CANADIAN NEEDS, MAKE AVAILABLE TO THE UNITED STATES AND MAINTAIN AND OPERATE SUCH EXISTING CANADIAN FACILITIES, EQUIPMENT AND SERVICES AT THE DEPLOYMENT BASES AS THE APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS MAY DEEM NECESSARY TO ENSURE EFFECTIVE AND ECONOMICAL UNITED STATES MILITARY USE OF THE DEPLOYMENT BASES.

B. THE UNITED STATES SHALL HAVE THOSE RIGHTS OF OPERATION NECESSARY TO ENSURE EFFECTIVE MILITARY USE OF THE DEPLOYMENT BASES. SUCH RIGHTS SHALL INCLUDE THE USE OF EXISTING CANADIAN FACILITIES, EQUIPMENT, AND SERVICES AND THE PREPOSITIONING OF PETROLEUM PRODUCTS. SUCH RIGHTS SHALL NOT BE EXERCISED IN SUCH A MANNER AS TO CAUSE, IN THE OPINION OF OFFICIALS OF THE CANADIAN DEPARTMENT OF NATINAL DEFENCE UNACCEPTABLE INTERFERENCE WITH CANADIAN OPERATIONS AT THE DEPLOYMENT BASES.

4. IMPROVEMENTS TO EXISTING CANADIAN FACILITIES, EQUIPMENT, AND SERVICES
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THE UNITED STATES MAY MAKE IMPROVEMENTS TO EXISTING CANADIAN FACILITIES, OR EQUIPMENT, OR SERVICES AT THE DEPLOYMENT BASES. SUCH IMPROVEMENTS SHALL ONLY BE MADE AFTER APPROVAL HAS BEEN OBTAINED BY THE

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UNITED STATES FROM THE CANADIAN DEPARTMENT OF NATIONAL DEFENCE. IN MAKING SUCH IMPROVEMENTS, THE UNITED STATES SHALL TAKE SPECIAL CARE TO AVOID ANY INFRINGEMENT OF RIGHTS OF THIRD PARTIES.

5. CONTRACTING PROCEDURES

EXCEPT WHERE IT CAN BE CLEARLY DEMONSTRATED THAT IT IS NOT PRACTICAL, CANADIAN CONTRACTORS WILL BE GIVEN PREFERENCE IN THE AWARDING OF CONSTRUCTION CONTRACTS FOR THE IMPROVEMENT OF EXISTING CANADIAN FACILITIES AND CANADIAN CONTRACTORS YHALL HAVE PREFERENTIAL CONSIDERATION IN THE PROCUREMENT OF MATERIALS, EQUIPMENT AND SUPPLIES.

6. FINANCING

A. EACH GOVERNMENT SHALL BEAR ITS OWN PERSONNEL COSTS.

B. EXCEPT AS PROVIDED HEREIN OR AS OTHERWISE AGREED BETWEEN APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS, THE COSTS OF MAINTAINING AND OPERATING THE DEPLOYMENT BASES SHALL BE THE RESPONSIBILITY OF CANADA.

C. THE UNITED STATES SHALL BE RESPONSIBLE FOR:

(1) THE COST OF IMPROVEMENTS TO EXISTING CANADIAN FACILITIES, EQUIPMENT, OR SERVICES MADE IN ACCORDANCE WITH PARAGRAPH 4 AGOVE;

(II) THE COST OF FUEL AND OTHER SUPPLIES USED BY UNITED STATES AIRCRAFT, INCLUDING THE COST OF PRE-POSITIONING FUEL AT THE DEPLOYMENT BASES; AND

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(III) THE COST OF MESSING, BILLETING AND SUPPLIES REQUIRED BY UNITED STATES PERSONNEL AT THE DEPLOYMENT BASES.

D. ANY ACTION REQUIRED TO BE TAKEN UNDER THIS AGREEMENT SHALL BE SUBJECT TO THE AVAILIBILITY OF APPROPRIATED FUNDS.

7. TAXES AND CUSTOMS DUTIES

A. CANADA SHALL GRANT REMISSION OF CUSTOMS DUTIES AND EXCISE TAXES ON GOODS IMPORTED INTO CANADA, AND OF FEDERAL SALES AND EXCISE TAXES ON GOODS

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PURCHASED IN CANADA, WHICH ARE OR WILL BECOME

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C O N F I D E N T I A L SECTION 3 OF 3 OTTAWA 3594

THE PROPERTY OF THE UNITED STATES AND WHICH
ARE TO BE USED IN THE IMPROVEMENT OF EXISTING
CANADIAN FACILITIES, EQUIPMENT OR SERVICES AT
THE DEPLOYMENT BASES, OR WHICH ARE OTHERWISE
FOR THE USE OF THE UNITED STATES UNDER THIS
AGREEMENT. CANADA SHALL ALSO GRANT REGUNDS
BY WAY OF DRAWBACK OF THE CUSTOMS DUTY PAID ON
GOODS IMPORTED BY CANADIAN MANUFACTURERS AND
USED IN THE MANUFACTURE OR PRODUCTION OF GOODS
PURCHASED BY OR ON BEHALF OF THE UNITED STATES
AND WHICH ARE TO BE USED IN THE IMPROVEMENT OF
EXISTING CANADIAN FACILITIES, EQUIPMENT, OR
SERVICES AT THE DEPLOYMENT BASES, OR WHICH ARE
OTHERWISE FOR THE USE OF THE UNITED STATES
UNDER THIS AGREEMENT.

B. SUBPARAGRAPH (A) ABOVE SHALL IN NO WAY LIMIT
THE APPLICATION OF CUSTOMS OR FISCAL EXEMPTIONS
OR TAX RELIEF PROVIDED BY THE NORTH ATLANTIC
TREATY ORGANIZATION STATUS OF FORCES AGREEMENT
SIGNED IN LONDON ON JUNE 19, 1951 OR OTHER
AGREEMENTS BETWEEN THE UNITED STATES AND CANADA.

8. CLOSURE OF DEPLOYMENT BASES

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NOTHING HEREIN SHALL BE INTERPRETED SO AS TO IMPOSE
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AN OBLIGATION ON CANADA TO MAINTAIN A DEPLOYMENT BASE IN OPERATION OR TO PREVENT ITS CLOSURE WHERE SUCH CLOSURE IS CONSIDERED BY CANADA TO BE IN ITS PUBLIC INTEREST. SHOULD A DEPLOYMENT BASE BE CLOSED THE UNITED STATES SHALL NOT BE ENTITLED TO ANY REIMBURSEMENT IN RESPECT OF IMPROVEMENTS OF REAL PROPERTY MADE BY IT AT SUCH DEPLOYMENT BASE.

9. OWNERSHIP AND DISPOSAL OF PROPERTY

OWNERSHIP AND RIGHT OF DISPOSAL OF REMOVABLE PROPERTY BROUGHT INTO CANADA OR PURCHASED IN CANADA AND PLACED ON THE BASES BY OR ON BEHALF OF THE UNITED STATES, INCLUDING READILY DEMOUNTABLE STRUCTURES, SHALL REMAIN IN THE UNITED STATES. THE UNITED STATES SHALL HAVE THE UNRESTRICTED RIGHT OF REMOVING OR DISPOSING OF ALL UNITED STATES PROPERTY AT ANY TIME, PROVIDED THAT SUCH REMOVAL OR DISPOSAL SHALL NOT BE DELAYED BEYOND A REASONABLE TIME AFTER THE CLOSURE OF A DEPLOYMENT BASE OR THE TERMINATION OF THIS AGREEMENT. THIS DISPOSITION WITHIN CANADA OF UNITED STATES PROPERTY AT THE DEPLOYMENT BASES SHALL BE EFFECTED IN ACCORDANCE WITH THE EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND CANADA DATED AUGUST 28, 1961, AND SEPTEMBER 1, 1961, CONCERNING THE DISPOSAL OF UNITED STATES EXCESS PROPERTY IN CANADA.

10. CANADIAN LAW

NOTHING IN THIS AGREEMENT SHALL DEROGATE FROM THE APPLICATION OF CANADIAN LAW IN CANADA, PROVIDED THAT IF IN UNUSUAL CIRCUMSTANCES ITS APPLICATION MAY LEAD TO UNREASONABLE DELAY OR DIFFICULTY IN THE IMPROVEMENT OR USE BY THE UNITED STATES OF FACILITIES, EQUIPMENT, OR SERVICES AT THE DEPLOY-MENT BASES, THE UNITED STATES MAY REQUEST THE ASSISTANCE OF CANADIAN AUTHORITIES IN SEEKING APPROPRIATE ALLEVIATION.

11. STATUS OF FORCES
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"THE PROVISIONS OF THE NORTH ATLANTIC TREATY ORGANIZATION STATUS OF FORCES AGREEMENT SIGNED IN LONDON ON JUNE 19, 1951, SHALL APPLY."

SUPPLEMENTARY ARRANGEMENTS AND ADMINISTRATIVE AGREEMENTS

SUPPLEMENTARY ARRANGEMENTS AND ADMINISTRATIVE AGREEMENTS BETWEEN APPROPRIATE MILITARY AUTHORITIES OF THE TWO GOVERNMENTS MAY BE MADE FROM TIME TO TIME FOR THE PURPOSE OF CARRYING OUT THE INTENT OF THIS AGREEMENT. END TEXT OF ANNEX.
ENDERS

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